

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BOSTON DIVISION
DOCKET NO. 05-11682

L & T YACHT SALES, INC.)
PLAINTIFF,)
)
VS.)
)
POST MARINE, INC.)
DEFENDANT)

PLAINTIFF'S MOTION TO STRIKE

Now comes Plaintiff, L & T Yacht Sales, Inc., and respectfully moves that the Court strike from the docket and record, Defendant's Reply Brief filed on June 25, 2007 in support of its Motion to Exclude filed on June 1, 2007. Plaintiff states that the grounds for its Motion to Strike are particularly described within Plaintiff's Opposition to Defendant's Motion for Leave to File Reply Brief and are incorporated by reference herein.

Plaintiff respectfully emphasizes the substance of paragraph (2) within its Opposition to Defendant's Motion for Leave to File Reply Brief. The reply brief itself should have been filed as an Exhibit and attached to the Motion for Leave to File, not as a separate pleading. This either was an inadvertent error by Defendant, or an attempt by Defendant to effect its "second memorandum" becoming part of the docket/record, before the Court has an opportunity to review Defendant's Motion for Leave to File and Plaintiff's Opposition. Defendant's Reply Brief, filed on June 25, 2007, at this point, should not be part of the official record or docket and it should be stricken therefrom.

The Plaintiff,
By its Attorneys,

/s/ John E. Zajac

John E. Zajac, Esquire BBO # 560195
CARMICHAEL, ZAJAC & FLEURY, P.C.
170 High Street
Taunton, MA 02780
(508) 821-2552

CERTIFICATE OF SERVICE

I, John E. Zajac, Esquire this 9th day of July, 2007 have given notice of the within Plaintiff's Motion to Strike, by e-mail service, via the Court's CM/ECF system which sent notification of such filing to Howard M. Brown, Esquire, Bartlett Hackett Feinberg P.C., 155 Federal Street, 9th floor, Boston, MA 02110 and by regular mail, postage pre-paid to Michel O. Weisz, Esquire at his 9350 S. Dixie Highway, Miami, FL 33156.

/s/ John E. Zajac
John E. Zajac, Esquire